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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/781,932	02/20/2004	Michael N. Helmus	03-081	9710
27774 7590 07/13/2009 MAYER & WILLIAMS PC 251 NORTH AVENUE WEST 2ND FLOOR WESTFIELD, NJ 07090				
EXAMINER				
DESAI, ANAND U				
ART UNIT		PAPER NUMBER		
1656				
MAIL DATE		DELIVERY MODE		
07/13/2009		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

**Advisory Action  
Before the Filing of an Appeal Brief**

<b>Application No.</b> 10/781,932	<b>Applicant(s)</b> HELMUS ET AL.
<b>Examiner</b> ANAND U. DESAI	<b>Art Unit</b> 1656

**--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

THE REPLY FILED 15 June 2009 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires \_\_\_\_\_ months from the mailing date of the final rejection.  
b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.  
Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**NOTICE OF APPEAL**

2. ☐ The Notice of Appeal was filed on \_\_\_\_\_. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

**AMENDMENTS**

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because  
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);  
(b) ☐ They raise the issue of new matter (see NOTE below);  
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or  
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).  
5. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.  
6. ☒ Newly proposed or amended claim(s) 22 would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).  
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.  
The status of the claim(s) is (or will be) as follows:  
Claim(s) allowed: 26, 27, 30, 32, 34, 37, 38, 40, 43, 45 and 48  
Claim(s) objected to: 25  
Claim(s) rejected: 1, 2, 4, 5, 19, 28, 31, 39, 41 and 44  
Claim(s) withdrawn from consideration: \_\_\_\_\_

**AFFIDAVIT OR OTHER EVIDENCE**

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).  
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).  
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

**REQUEST FOR RECONSIDERATION/OTHER**

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:  
See Continuation Sheet  
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). \_\_\_\_\_  
13. ☐ Other: \_\_\_\_\_

/ANAND U DESAI/  
Primary Examiner, Art Unit 1656

Continuation of 11. does NOT place the application in condition for allowance because: Claims 1, 2, 4, 5, 19, 28, 31, 39, 41, and 44 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Bellamkonda et al. The remarks state Bellamkonda does not describe a single synthetic biomaterial that comprises the bioactive polymer and the biocompatible polymer. Rather Bellamkonda describes these polymers as separate materials. Applicant's arguments filed June 15, 2009 have been fully considered but they are not persuasive. Bellamkonda et al. do disclose a bioartificial three-dimensional hydrogel extracellular matrix derivatized with a cell adhesive peptide fragment that is provided for use in tissue regeneration or replacement. The peptide fragment contains the sequence TyrIleGlySerArg, and is covalently immobilized to the matrix. The matrix can be a polysaccharide, including agarose (see claims 5 and 6). It may be desirable to encapsulate the cell-seeded matrix in a semi-permeable membrane to form a bioartificial organ, including a nerve guidance channel. Various polymers and polymer blends can be used to manufacture the nerve guidance channel. Polymeric membranes forming the nerve guidance channel may include polyacrylates (including acrylic copolymers), polyvinylidenes, polyvinyl chloride copolymers, polyurethanes, polystyrenes, polyamides, cellulose acetates, cellulose nitrates, polysulfones, polyphosphazenes, polyacrylonitriles, poly(acrylonitrile/covinyl chloride), as well as derivatives, copolymers and mixtures thereof (see col. 7, lines 13-16, col. 12, lines 17-31, and claims 1-6). Therefore, Bellamkonda et al. do disclose a synthetic biomaterial (e.g. a nerve guidance channel) that is composed of a biocompatible polymer (e.g. polyurethane) and further comprises a bioactive polymer that comprises a YIGSR peptide and a polysaccharide as currently claimed. Claim 25 is objected to as being dependent upon a rejected base claim 1, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. Applicant's requested clarification in regards to claim 19 being objected and rejected in the remarks filed June 15, 2009. The claim is no longer objected based on the amendment to describe the hydrogel by structure. The claim is still rejected under 35 U.S.C 103(a) as stated above.